

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES VARNER,

Petitioner,

Case Number: 07-12427

v.

HONORABLE AVERN COHN

BLAINE C. LAFLER,

Respondent.

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**ORDER DENYING PETITIONER'S MOTION FOR A CERTIFICATE OF
APPEALABILITY**

This is a habeas case under 28 U.S.C. § 2254. Petitioner James Varner, ("Petitioner") is a state inmate serving a sentence of ten to thirty years in prison for first-degree home invasion and being a fourth felony habitual offender, Mich. Comp. Laws §§ 750.110a(2); 769.12; six to thirty years in prison for assault with intent to commit a felony and being a fourth felony habitual offender, Mich. Comp. Laws §§ 750.87; 769.12; and two to fifteen years in prison for resisting and obstructing a police officer and being a fourth felony habitual offender, Mich. Comp. Laws §§ 750.81d(1); 769.12.

Petitioner filed a *pro se* petition for writ of habeas corpus claiming that he is incarcerated in violation of his constitutional rights. Respondent argued Petitioner's claims lack merit, were non-cognizable, or procedurally defaulted. The Court denied the petition and also denied a certificate of appealability. See Memorandum and Order filed September 16, 2010. (Doc. 9)

Before the Court is Petitioner's motion for a certificate of appealability. (Doc. 11). Because the Court has already denied a certificate of appealability, the motion is moot. Moreover, construing Petitioner's motion as a motion for reconsideration, it is DENIED. See E.D. Mich. LR 7.1(h)(3). As explained in the September 16, 2010 decision, Petitioner is not entitled to a certificate of appealability on any of his claims. Nothing in Petitioner's motion convinces the Court that a certificate of appealability should issue.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: November 5, 2010

I hereby certify that a copy of the foregoing document was mailed to James Varner, 141024, Ionia Maximum Correctional Facility, 1576 W. Bluewater Highway, Ionia, MI 48846 and the attorneys of record on this date, November 5, 2010, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160